

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

## CHAPTER 592

S.P. 240 - L.D. 733

**An Act to Amend the Laws  
Governing Protective Custody****Be it enacted by the People of the State of  
Maine as follows:****Sec. 1. 34-B MRSA §3863, sub-§2-A** is enacted to read:

**2-A. Custody agreement.** A state, county or municipal law enforcement agency may meet with representatives of those public and private health practitioners and health care facilities that are willing and qualified to perform the certifying examination required by this section in order to attempt to work out a procedure for the custody of the person who is to be examined while that person is waiting for that examination. Any agreement must be written and signed by and filed with all participating parties. In the event of failure to work out an agreement that is satisfactory to all participating parties, the procedures of section 3862 and this section continue to apply.

As part of an agreement the law enforcement officer requesting certification may transfer protective custody of the person for whom the certification is requested to another law enforcement officer or a health officer if that officer agrees. Any arrangement of this sort must be part of the written agreement between the law enforcement agency and the health care agency. In the event of a transfer, the law enforcement officer seeking the transfer shall provide the written application required by this section.

See title page for effective date.

## CHAPTER 593

H.P. 759 - L.D. 1026

**An Act to Clarify the Requirements of  
Disclosure of Information Pertaining  
to Mentally Disabled Clients****Be it enacted by the People of the State of  
Maine as follows:****Sec. 1. 34-B MRSA §1207, sub-§5** is enacted to read:

**5. Permitted disclosure.** Notwithstanding subsections 1 to 4, a licensed mental health professional providing care and treatment to an adult client may provide information authorized by this subsection to a family member or other person if the family

member or other person lives with or provides direct care to the client, if without the disclosure there would be significant deterioration in the client's daily functioning and if the disclosure is in the best interest of the client.

A. Disclosure may be made only at the written request of the family member or other person living with the client.

B. Prior to the disclosure, the client must be informed in writing of the request, the name of the person requesting the information, the reason for the request and the specific information being provided. Information may not be disclosed unless the client, having received written notice of the request, consents to the disclosure. If the client does not consent to the disclosure, the person requesting the information may appeal to the department for authorization to disclose the information over the objections of the client.

C. Disclosures are limited to information regarding diagnosis, admission to or discharge from a treatment facility, the name of any medication prescribed, side effects of that medication, the likely consequences of failure of the client to take the prescribed medication, treatment plans and goals and behavioral management strategies.

D. By September 1, 1994, the department shall adopt rules to implement this subsection. The rules must include, but are not limited to, an appeal process for persons who are denied access to information under paragraph B. The appeal process must determine whether the person requesting information is a person who lives with or provides direct care to a client, whether disclosure of the information is in the best interest of the client and whether denial of access to the information will result in significant deterioration in the client's daily functioning. The commissioner shall appoint an advisory committee pursuant to Title 5, section 12002, subsection 1, paragraph A to assist the department in the development of the rules. The members of the advisory committee are not entitled to reimbursement for expenses or legislative per diem. The advisory committee must include, but is not limited to, proportionate representation from each of the following:

(1) Consumers nominated by the Director of the Office of Consumer Affairs;

(2) Members of the statewide alliance for the mentally ill;

(3) Mental health service providers; and

(4) The protection and advocacy agency designated pursuant to Title 5, section 19502.

See title page for effective date.

## CHAPTER 594

S.P. 415 - L.D. 1324

### An Act to Create Statewide Arrest Powers for Municipal and County Law Enforcement Officers

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §405 is enacted to read:

#### §405. Optional arrest powers

1. Optional powers. The county commissioners may authorize a county's sheriff and certified, full-time deputy sheriffs to perform any of the following acts while outside the jurisdiction in which they are appointed:

A. Arrest without a warrant a person who has committed or is committing in the sheriff's or deputy sheriff's presence a Class A, B or C crime defined in Title 17-A, chapters 9, 11, 13, 17, 27 or 33 while the sheriff or deputy sheriff is on or off duty; or

B. Arrest without a warrant a person for a crime committed in the county in which the sheriff or deputy sheriff is appointed:

(1) If that county authorizes the sheriff or deputy sheriffs it appoints to make arrests under this paragraph;

(2) If the arrest is made as part of an ongoing criminal investigation made by a sheriff or deputy sheriff while on duty and assigned to the investigation;

(3) If the law enforcement agency of a foreign municipality in which the arrest is to be made is notified in advance; and

(4) If the arrest is authorized by Title 17-A, section 15, subsection 1, paragraph A.

As used in this subsection, the phrase "committed or is committing in the sheriff's or deputy sheriff's presence" has the same meaning as provided in Title 17-A, section 15, subsection 2.

2. Liability. When a county sheriff or deputy sheriff makes an arrest, as authorized in subsection 1, outside of jurisdictional limits of the county in which the sheriff or deputy sheriff is appointed, that sheriff or deputy sheriff has the same immunity from tort liability and all of the pension, relief, disability, worker's compensation, insurance and any other benefits the sheriff or deputy sheriff enjoys while performing duties within the sheriff or deputy sheriff's appointing county.

Sec. 2. 30-A MRSA §2671, sub-§§2-A and 2-B are enacted to read:

2-A. Optional powers. Notwithstanding subsection 2, municipal officers may authorize a municipality's police officers to perform any of the following acts while the police officers are outside the jurisdiction in which they are appointed:

A. Arrest without a warrant a person who has committed in the officer's presence or is committing in the officer's presence a Class A, B or C crime defined in Title 17-A, chapters 9, 11, 13, 17, 27 or 33 while the officer is on or off duty; or

B. Arrest without a warrant a person for a crime committed in the municipality in which the officer is appointed:

(1) If that municipality authorizes the officers it appoints to make arrests under this paragraph;

(2) If the arrest is made as part of an ongoing criminal investigation made by an officer while on duty and assigned to the investigation;

(3) If the law enforcement agency of a foreign municipality in which the arrest is to be made is notified in advance; and

(4) If the arrest is authorized by Title 17-A, section 15, subsection 1, paragraph A.

As used in this subsection the phrase "committed in the officer's presence or is committing in the officer's presence" has the same meaning as provided in Title 17-A, section 15, subsection 2.

2-B. Liability. When a municipal police officer makes an arrest, as authorized in subsection 2-A, outside of jurisdictional limits of the municipality in which the police officer is appointed, that police officer has the same immunity from tort liability and all of the pension, relief, disability, worker's compensation, insurance and any other benefits the police